COASTAL AND WETLAND RESOURCES

As we currently understand the project, it would involve anchoring a Single Point Mooring buoy (SPM) in about 93 feet of water approximately 12.7 nautical miles off the coast of North Padre Island and connecting it to inshore components via 14.71 miles of two new parallel 30-inch diameter crude oil pipelines. The inshore components include 5.74 miles of two new 30-inch diameter pipelines and an onshore valve station on North Padre Island. The latter pipelines would transit the Laguna Madre Bay system, the Gulf Intracoastal Waterway, and North Padre Island. The onshore components would include a storage terminal facility that would require a 150-acre site in Nueces County, a booster station located on an 8.5-acre site in Kleberg County, and 6.36 miles of two new 30-inch diameter parallel pipelines crossing through Nueces and Kleberg Counties.

It is clear that these components, taken individually and considered cumulatively, could have significant impacts to vital coastal and wetland resources. Therefore, it is imperative that all necessary measures be taken to avoid such impacts to the degree possible and to fully mitigate or compensate for those that cannot be avoided. Beyond compliance with the National Environmental Policy Act and the Clean Water Act, there is also a fundamental need to ensure that the proposed project is consistent with federal and State efforts to restore coastal resources. The rapid deterioration of coastal areas in the northern Gulf of Mexico is regarded by many as one of the nation's most critical ecological problems.

Accordingly, all practicable efforts should be taken to ensure that the proposed project does not inhibit or otherwise conflict with reasonably foreseeable future restoration efforts in this area. Special attention should be afforded to the alternative plans currently being analyzed as part of the Texas Coastal Restoration and Protection Feasibility Study (U.S. Army Corps of Engineers) and to those found in the Texas Coastal Resiliency Master Plan (Texas General Land Office). Any proposed projects under the Deepwater Horizon Natural Resource Damage Assessment and RESTORE Act programs that might be located in areas potentially impacted by this proposal should be evaluated. Coastal natural resource and sensitive species impact mitigation should be coordinated with the Coastal Bend Bays and Estuaries Program.

The impacts from construction and operation of the deepwater port and ancillary facilities, including dredging and any projected impacts to wetlands and special aquatic sites (including seagrass beds), are of particular interest to us and should be analyzed in the draft Environmental Impact Statement (EIS). We would look for a thorough evaluation in the draft EIS that demonstrates planning efforts to avoid, minimize, and compensate for wetland and special aquatic site losses associated with any proposed dredged material disposal, construction work, and operation and maintenance activities. All unavoidable direct and indirect impacts would need to be fully compensated. In summary, the planning for this project must ensure that adverse impacts to natural marine resources, coastal wetlands, and special aquatic sites (including seagrass beds) have been avoided to the maximum extent practicable, taking advantage of every opportunity for beneficial use of any dredged material produced.

We recommend that an aquatic resource and wetland mitigation plan be included within the draft EIS, along with the Clean Water Act Section 404 (b)(1) analysis. The mitigation plan

should be included in the draft EIS along with the alternatives analyses and any additional information relevant to potential impacts to wetlands and other special aquatic resources. This would ensure that the draft EIS has sufficient information to demonstrate whether potential adverse impacts have been adequately addressed. Providing this material after public review of the draft EIS does not allow optimum analysis of the entire range of significant potential environmental impacts. Impacts to aquatic resources and wetlands should include direct and indirect effects, which might include deepwater port service and maintenance functions such as harboring of supply boats and other support vessels. Provisions for ensuring adequate post-implementation project monitoring should be included. In addition, means of assuring mitigation success should also be incorporated into the proposed plan.

Over the years, human uses and natural events have combined to cause a critical habitat loss in this ecologically sensitive area which is important to the long-term protection of resident and migratory shorebirds and sea turtles. Construction and maintenance operations should include plans for avoiding impacts to nesting avian and sea turtle species, particularly those that utilize the shoreline, wetland, and shallow water habitats of North Padre Island and Laguna Madre for any portion of their life cycle.

The environmental analyses should explain whether the SPM location will negate the need for ballast water exchange and the concomitant potential for invasive species introduction. The potential for introduction of these species via other pathways associated with the vessels should also be evaluated.

The draft EIS should include an analysis of marine pollution issues which might arise from the potential increase in foreign vessel traffic in the area.

In addition, the EIS should address any projected marine and coastal natural resource impacts to be expected as a result of hurricanes or tropical storms. As we understand it, the Single Point Mooring system includes anchors attached to the seabed and anchor chains and chain stoppers that allow the buoyed facility to move freely within a defined area. The environmental analysis should explain whether these features would cause bottom scour and impacts to benthic communities. The analysis of alternatives to reduce environmental impacts should also include a comparison of various types of Single Point Mooring systems, including Catenary Anchor Leg Mooring and Single Anchor Leg Mooring.

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT

Under Section 101 of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA), 33 U.S.C. § 1401, no person may transport material from the United States or on an American flagged vessel for the purpose of dumping it in ocean waters in the absence of a permit issued by EPA pursuant to MPRSA § 102. A MPRSA §102 permit is also required for any person transporting material from anywhere for the purpose of dumping it in the territorial seas or to the contiguous zone where it might affect the territorial seas.

Based on our current understanding, it does not appear that this proposal includes

transporting materials for the purpose of dumping it in connection with the construction or operation of the Texas Gulf Terminals Inc. facility. Moreover, "dumping" does not include "construction of any fixed structure or artificial island nor the intentional placement of any device in ocean waters, or on or in the submerged land beneath such waters, for a purpose other than disposal, when such construction or such placement is otherwise regulated by Federal or state law . . ." MPRSA § 3(f). The construction of this deepwater port appears to fall within this statutory exclusion. However, if this understanding is not correct or if dredged materials associated with the construction/placement of the SPM facility and pipelines require disposal, MRPSA Sections 101 and 103 may apply, as well as provisions of the Clean Water Act.

Further, the draft EIS should include an analysis of any potential impacts from the construction, operation, or maintenance of this deepwater port with the use and monitoring of the Corpus Christi Ship Channel Ocean Dredged Material Disposal Site. If there is any potential impact to the site or its use, early coordination with EPA Region 6 is encouraged.